

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 852**

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**Introduced by Assembly Member Fong**

February 17, 2011

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An act to add Section 87482.1 to the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL’S DIGEST

AB 852, as amended, Fong. Public postsecondary education: community colleges: temporary faculty.

Existing law establishes the California Community Colleges, which are administered by the Board of Governors of the California Community Colleges. Governing bodies of community college districts are authorized to employ any person holding appropriate certification documents, and to classify these employees as temporary employees, as prescribed.

This bill would provide that beginning July 1, 2012, temporary community college faculty members have a right of first refusal for assignments, as defined, subject to any greater rights provided in a collective bargaining agreement or otherwise provided by a district. A temporary faculty member would only be denied the right of first refusal for just cause, as defined, must be notified promptly in writing of the denial and would be entitled to a procedure providing due process for promptly challenging the denial. This bill would provide that the right of first refusal may not be construed as “reasonable assurance” of employment for purposes of unemployment compensation eligibility between academic terms.

Because this bill would impose additional duties on community college districts, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*

3     *(a) California's community colleges have historically hired*  
4     *temporary faculty to teach courses in basic skills, entry level*  
5     *transfer courses, and career technical education. The employment*  
6     *of temporary faculty enriches the curriculum, adds diversity of*  
7     *experience and knowledge to the college, and strengthens the tie*  
8     *between the college and its community.*

9     *(b) Temporary faculty comprise over 40,000 of the current*  
10    *community college faculty and teach approximately 45 percent of*  
11    *all community college courses in California.*

12    *(c) Student success is predicated on a consistent and stable*  
13    *workforce that is knowledgeable, meets performance expectations*  
14    *through satisfactory evaluations, and lends both expertise and*  
15    *experience to the needs of the college and students. A secure pool*  
16    *of temporary, part-time faculty is necessary on a long-term basis*  
17    *to support students who require continuity of quality instruction,*  
18    *mentoring, letters of recommendation, curriculum development,*  
19    *and learning outcomes assessment that will improve student*  
20    *success and retention.*

21    *(d) With workforce reductions and other adjustments in meeting*  
22    *college needs, temporary faculty who have experience and*  
23    *knowledge and meet the needs of students and the college are*  
24    *being disenfranchised from the college workforce. This act will*  
25    *provide the colleges with a proven pool of faculty who have*  
26    *historically served the college, satisfactorily served student needs*

1 *and success, and have been proven to be an asset to the continued*  
2 *needs of the college.*

3 *(e) This act should not be construed to diminish or otherwise*  
4 *affect the requirements, guarantees, or other protections under a*  
5 *collective bargaining agreement, district policy, or state or federal*  
6 *law that provides for greater or additional requirements,*  
7 *guarantees, or protections than those provided under this act.*

8 **SECTION 1.**

9 **SEC. 2.** Section 87482.1 is added to the Education Code, to  
10 read:

11 87482.1. (a) Commencing July 1, 2012, temporary community  
12 college faculty members shall have a right of first refusal for  
13 assignments as set forth in this section, subject to any greater rights  
14 provided in a collective bargaining agreement or otherwise  
15 provided by a district.

16 (b) A temporary faculty member who has been employed in a  
17 community college district for at least four of the preceding eight  
18 semesters or at least six of the preceding 12 quarters and whose  
19 last evaluation, if any, was satisfactory shall have the right of first  
20 refusal for ~~any~~ an assignment in that district ~~which the community~~  
21 ~~college district that the faculty member has performed within the~~  
22 ~~preceding eight semesters or preceding 12 quarters. Where~~ If two  
23 or more temporary faculty members claim the same assignment,  
24 the assignment shall be offered in the order of seniority. ~~All~~  
25 ~~temporary faculty members shall have access to the seniority list~~  
26 ~~in any department in which they have the right of first refusal.~~

27 (c) A faculty temporary member may be denied the right of first  
28 refusal only for just cause, shall be notified promptly in writing  
29 of the just cause, and shall be entitled to a procedure providing  
30 due process for promptly challenging the denial as provided in this  
31 chapter. Just cause includes, but is not limited to, giving the  
32 assignment to a more senior faculty member, failure of a faculty  
33 member to timely request the assignment in writing if required by  
34 the district, or a district decision not to offer the assignment because  
35 of recent low enrollment, funding, or program changes.

36 (d) The right of first refusal of an assignment granted by this  
37 section shall not be construed as “reasonable assurance” of  
38 employment for purposes of unemployment compensation  
39 eligibility between academic terms.

1     ~~SEC. 2.~~

2     *SEC. 3.* If the Commission on State Mandates determines that  
3 this act contains costs mandated by the state, reimbursement to  
4 local agencies and school districts for those costs shall be made  
5 pursuant to Part 7 (commencing with Section 17500) of Division  
6 4 of Title 2 of the Government Code.

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